

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**CIVIL CONFERENCE
MINUTE ORDER**

BEFORE: ANNE Y. SHIELDS
U.S. MAGISTRATE JUDGE

DATE: 7/21/2016
TIME: 11:30 AM
FTR: 11:39-11:40
3:56-4:02

CASE: **CV 15-3117 (ADS) (AYS)** Guglielmo v. The Cheesecake Factory

TYPE OF CONFERENCE: Motion Hearing

APPEARANCES: Plaintiff Russell Edwards
 Shanshan Zheng

 Defendant Lenny Battaglia

THE FOLLOWING RULINGS WERE MADE:

- ☐ Scheduling Order entered.
- ☐ Settlement conference scheduled for __ in courtroom 830 of the Long Island Courthouse. Counsel shall comply with the undersigned's individual rules on settlement.
- ☐ Proposed settlement pending: By __, each party shall notify the court by *ex parte* letter to chambers at (631) 712-5715 whether it accepts or rejects the proposed settlement. These letters will be kept confidential.
- ☐ The Joint Pretrial Order is accepted for filing and the action is deemed ready for trial.
- ☒ Other:

Rulings by the Court:

Defendant's pending motion to compel arbitration and to strike or modify the class definition appearing as Docket Entry 29 is hereby withdrawn and terminated. All class action claims will be dismissed with Prejudice. The parties agree to conditional collective action certification under 29 U.S.C. 216(b). The collective shall consist of all those employed as servers or wait staff or bartenders at the Cheesecake Factory Lake Grove and Huntington Station locations. The collective shall include all those within the group who were employed at those locations between May 8, 2009 through April 20, 2013. To the extent any individual has already opted into this action and any such individual is not within the agreed upon definition of the collective, such individuals may remain in this action and their claims will be dealt with on an individual basis. The parties have agreed to use of this Court's form stipulation and notice of collective action. Each current Plaintiff and opt-in and every individual who opts in to the collective shall be provided with this Court's form interrogatories to be completed and forwarded to Defense counsel.

As to discovery, the parties agree to engage in limited Tier One discovery (which shall commence at the close of the opt-in period) as follows:

1. Defendants may take depositions of the named plaintiffs and up to 10% of the opt-in collective but no less than 10 depositions
2. Plaintiffs may take 5 depositions and, in addition a Rule 30(b)(6) deposition

3. The parties may return to this Court for further discovery after conferring if necessary

The parties have agreed to consent to this Court's jurisdiction over all discovery and class and collective claims issues. The foregoing is without prejudice to the making of any motion to decertify the collective after the close of the notice period.

SO ORDERED

/s/ Anne Y. Shields
ANNE Y. SHIELDS
United States Magistrate Judge